SUPREME COURT, U. S.

NO. 283

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1967

A MOTION THAT THE COURT RECEIVE A BRIEF SUMMARY OF THE PROCEDURAL AND SUBSTANTIVE ISSUES IN THE CASE AND THE RELATIONSHIP OF THE LATTER ISSUE TO THE BRAND CASE

DONALD F. KNOX
Petitioner

vs.

THE STATE OF OHIO,
Respondent

Donald F. Knox
127 W. Northwood Ave.
Columbus, Ohio

Petitioner

MOTION

The several appeals of the petitioner have been successively rejected for procedural reasons. The State Personnel Board of Review rejected the appeal for reason of laches; the Common Pleas Court based its decision on an inapplicable section of the Revised Code, and the Court of Appeals dismissed the appeal for reason that the Board had no right to hear an appeal from an unclassified employee. The Supreme Court of Ohio refused to hear the case on the merits.

The substantive question has never been decided (the decision of the Common Pleas Court has no validity in law) and has been reviewed only at the hearing before the Board. That question was whether or not Knox had been improperly carried in the unclassified service which in turn was based upon the question as to whether or not Knox could have been considered an administrative officer as based upon Section 143.08 (A) (7), Revised Code. Such a question can be answered in the petitioner's case without interpreting the meaning of the term "administrative officer" in paragraph (7), cited above.

The Supreme Court of Ohio stated in the case of State, ex rel. Brand v. Eversman, 155 Ohio St. 383 (p. 388) that a person "who assists the business manager in an important supervisory capacity" is an administrative officer. Brand had claimed that his duties were not of such a high level so as to be covered under that term. By relating the testimony in the transcript of the Knox hearing before the Board to the decision in the Brand case, it is apparent that Knox was not an administrative officer and thus was entitled to classified status. The process of interpreting the law has been accomplished by the Supreme Court of Ohio.

Respectfully submitted,

Donald F. Knox, Petitioner